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Copyright Royalty Board

37 CFR Part 385

[Docket No. 21-CRB-0001-PR (2023-2027)]

Determination of Rates and Terms for Making and Distributing Phonorecords (Phonorecords IV)

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Proposed rule; second reopening of comment period.

SUMMARY: Because a comment filed by settling parties included additional material (in particular a memorandum of understanding) that relates to statements in some of the comments the Copyright Royalty Judges received, the Judges are reopening the comment period for an additional 30 days. The proposed rule published for comment sets certain rates and terms applicable during the period beginning January 1, 2023, and ending December 31, 2027, for the section 115 statutory license for making and distributing phonorecords of nondramatic musical works and is based on regulations proposed pursuant to a partial settlement among the settling parties.

DATES: The comment period for the proposed rule published June 25, 2021, at 86 FR 33601, which was reopened on July 29, 2021, at 86 FR 40793, is reopened a second time. Comments are due no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may send comments, identified by docket number 21-CRB-0001-PR (2023-2027), online through eCRB at <https://app.crb.gov>.

Instructions: To send your comment through eCRB, if you don't have a user account, you will first need to register for an account and wait for your registration to be approved. Approval of user accounts is only available during business hours. Once you

have an approved account, you can only sign in and file your comment after setting up multi-factor authentication, which can be done at any time of day. All comments must include the Copyright Royalty Board name and the docket number for this proposed rule. All properly filed comments will appear without change in eCRB at <https://app.crb.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to eCRB at <https://app.crb.gov> and perform a case search for docket 21-CRB-0001-PR (2023-2027).

FOR FURTHER INFORMATION CONTACT: Anita Blaine, CRB Program Specialist, 202-707-7658, crb@loc.gov.

SUPPLEMENTARY INFORMATION: On June 25, 2021, the Copyright Royalty Judges published for comment proposed regulations (arising from a partial settlement) that set rates and terms applicable during the period beginning January 1, 2023, and ending December 31, 2027, for the section 115 statutory license for making and distributing phonorecords of nondramatic musical works. Comments were due by July 26, 2021. 86 FR 33601 (Jun. 25, 2021). As some filers experienced technical difficulties filing their comments in eCRB, the Judges extended the deadline for filing comments to August 10, 2021. 86 FR 40793 (July 29, 2021).

On August 10, 2021, the final day of the extended comment period, the National Music Publishers' Association, Inc., ("NMPA") and Nashville Songwriters Association International ("Copyright Owner Participants"), and Sony Music Entertainment, UMG Recordings, Inc. and Warner Music Group Corp. ("Joint Record Company Participants"), jointly submitted comments regarding the proposed rule ("Joint Submission"). Attached to the Joint Submission, as Exhibit C, was a Memorandum of Understanding ("MOU") between the Joint Record Company Participants and the Recording Industry Association

of America, Inc., on the one hand, and NMPA and certain music publishing companies, on the other.

The Joint Submission included arguments that the MOU is irrelevant to the Judges' consideration of the proposed partial settlement and proposed regulations and that the MOU does not call into question the reasonableness of the proposed partial settlement and proposed regulations. Because interested parties other than those who submitted the Joint Submission may have been unable to adequately view or comment upon the MOU prior to the close of the Judges' extended comment period, the Judges are reopening the comment period. The Judges will allow 30 days for comments regarding the impact, if any, that the MOU should have on the Judges' consideration of whether the proposed partial settlement and proposed regulations provide a reasonable basis for setting statutory rates and terms.

Dated: October 19, 2021.

Jesse M. Feder,
Chief Copyright Royalty Judge.

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